

**CHAPTER 8**

**CABLE TELEVISION**

**ARTICLE I – SHORT TITLE AND DEFINITIONS**

**8-1-1**        **SHORT TITLE.** This Franchise Ordinance shall be known and cited as the Cable Communications Franchise.

**8-1-2**        **DEFINITIONS.** For the purposes of this Franchise, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. The word "may" is directory and discretionary and not mandatory.

(A)            **"Basic Cable Service"** means any service tier which includes the lawful retransmission of local television broadcast signals and any public, educational, and governmental access programming required by the franchise to be carried on the basic tier. Basic Cable Service as defined herein shall not be inconsistent with 47 U.S.C. § 543(b)(7)(1993).

(B)            **"Basic Revenues"** means revenues received from the Basic Cable Service.

(C)            **"Cable Communications System" or "System"** means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include:

- (1) a facility that serves only to retransmit the television signals of **one (1)** or more television broadcast stations;
- (2) a facility that serves subscribers without using any public right-of-way;
- (3) a facility of common carrier which is subject, in whole or in part, to the provisions of subchapter II of the Cable Act, except that such facility shall be considered a cable system (other than for purposes of § 621(c) of the Cable Act) to the extent such facility is used in the transmission of video programming directly to subscribers; unless the extent of such use is solely to provide interactive on-demand services;
- (4) an open video system that complies with Section 653 of the Cable Act; or
- (5) any facilities of any electric utility used solely for operating

its electric utility system.

(D) **"Cable Programming Service"** means any video programming provided over a cable system, regardless of service tier, including installation or rental of equipment used for the receipt of such video programming, other than:

- (1) Video programming carried on the Basic Service Tier;
- (2) Video programming offered on a pay-per-channel or pay-per-program basis; or
- (3) A combination of multiple channels of pay-per-channel or pay-per-program video programming offered on a multiplexed or time-shifted basis so long as the combined service:
  - (a) consists of commonly-identified video programming; and
  - (b) is not bundled with any regulated tier of service.Cable Programming Service as defined herein shall not be inconsistent with the definition as set forth in 47 U.S.C. § 543(1)(2)(1993) and 47 C.F.R. 76.901(b)(1993).

(E) **"Cable Service"** means:

- (1) the one-way transmission to subscribers of:
  - (a) video programming, or
  - (b) other programming service, and
- (2) subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

(F) **"Converter"** means an electronic device which converts signals to a frequency acceptable to a television receiver of a Subscriber and by an appropriate selector permits a Subscriber to view all Cable Communications Services which the Subscriber is lawfully authorized to receive.

(G) **"Drop"** means the cable that connects the ground block on the Subscriber's residence to the nearest feeder cable of the System.

(H) **"FCC "** means the Federal Communications Commission and any legally appointed, designated or elected agent or successor.

(I) **"Grantee"** is Triax Midwest Associates, L.P., its agents and employees, lawful successors, transferees or assignees.

(J) **"Gross Revenues"** means all revenue received from Cable Service directly by the Grantee from the operation of its System within Village. The term Gross Revenues shall not include franchise fees, advertising revenues, Pay Television fees, installation, late fees, any fees itemized and passed through as a result of franchise imposed requirements or any taxes or fees on services furnished by Grantee imposed directly on any Subscriber or user by any municipality, state, or other governmental unit and collected by Grantee for such governmental unit.

(K) **"Installation"** means the connection of the System from feeder cable to the point of connection, including Standard Installations and custom

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installations.

(L) **"Lockout Device"** means an optional mechanical or electrical accessory to a Subscriber's terminal which inhibits the viewing of a certain program, certain channel, or certain channels provided by way of the Cable Communication System.

(M) **"Pay Television"** means the delivery over the System of pay-per-channel or pay-per-program audio-visual signals to Subscribers for a fee or charge, in addition to the charge for Basic Cable Service or Cable Programming Services.

(N) **"Person"** is any person, firm, partnership, association, corporation, company, or other legal entity.

(O) **"Standard Installation"** means any residential installation which can be completed using a Drop of **one hundred fifty (150) feet** or less.

(P) **"Street "** means the surface of, and the space above and below, any public street, road, highway, freeway, lane, alley, path, court, sidewalk, parkway, or drive, or any easement or right-of-way now or hereafter held by Village.

(Q) **"Subscriber"** means any Person who lawfully receives Cable Service. In the case of multiple office buildings or multiple dwelling units, the "Subscriber" means the lessee, tenant or occupant.

(R) **"Village"** means Village of Dawson, a municipal corporation, in the State of Illinois, acting by and through its Village Board.

(S) **"Village Board"** means the Dawson, Illinois Village Board.

## ARTICLE II – GRANT OF AUTHORITY AND GENERAL PROVISIONS

**8-2-1 FRANCHISE REQUIRED.** It shall be unlawful for any Person to construct, operate or maintain a Cable Communications System in Village, unless such Person or the Person for whom such action is being taken shall have first obtained and shall currently hold a valid Franchise Ordinance. It shall also be unlawful for any Person to provide Cable Service in Village unless such Person shall have first obtained and shall currently hold a valid Franchise Ordinance. All Cable Communications Franchises granted by Village, shall contain the same substantive terms and conditions.

**8-2-2 GRANT OF FRANCHISE.** This Franchise is granted pursuant to the terms and conditions contained herein.

**8-2-3 GRANT OF NONEXCLUSIVE AUTHORITY.**  
(A) The Grantee shall have the right and privilege to construct, erect, operate, and maintain, in, upon, along, across, above, over and under the streets, alleys, public ways and public places now laid out or dedicated and all extensions thereof, and additions thereto in Village, poles, wires, cables, underground conduits,

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manholes, and other television conductors and fixtures necessary for the maintenance and operation in Village of a Cable Communications System as herein defined.

(B) This Franchise shall be nonexclusive, and Village reserves the right to grant a similar use of said streets, alleys, public ways and places, to any person at any time during the period of this Franchise, provided, however, that any additional Franchises granted shall contain the same substantive terms and conditions as this Franchise.

**8-2-4 FRANCHISE TERM.** Franchise shall be in effect for a period of **fifteen (15) years** from the effective date, unless renewed, revoked or terminated sooner as herein provided.

**8-2-5 PREVIOUS FRANCHISES.** Upon acceptance by Grantee as required by **Section 8-2-11** herein, this Franchise shall supersede and replace any previous Ordinance or Agreement granting a Franchise to Grantee to own, operate and maintain a Cable Communications System within Village **Ordinance No. 02-29-84** is hereby expressly repealed.

**8-2-6 RULES OF GRANTEE.** The Grantee shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable said Grantee to exercise its rights and perform its obligation under this Franchise.

**8-2-7 TERRITORIAL AREA INVOLVED.** This Franchise is granted for the corporate boundaries of Village, as it exists from time to time. In the event of annexation by Village, or as development occurs, any new territory shall become part of the area covered, provided, however, that Grantee shall not be required to extend service beyond its present System boundaries unless there is a minimum of **forty-five (45) homes** per cable mile. Access to cable service shall not be denied to any group of potential residential cable Subscribers because of the income of the residents of the area in which such group resides. Grantee shall be given a reasonable period of time to construct and activate cable plant to service annexed or newly developed areas.

**8-2-8 WRITTEN NOTICE.** All notices, reports, or demands required to be given in writing under this Franchise shall be deemed to be given when delivered personally to any officer of Grantee or Village's Administrator of this Franchise or **forty-eight (48) hours** after it is deposited in the United States mail in a sealed envelope, with registered or certified mail postage prepaid thereon, addressed to the party to whom notice is being given, as follows:

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If to Village: Village of Dawson  
P.O. Box 167  
Dawson, IL 62520-0167  
Attn: Donna Taft

If to Grantee: Triax Midwest Associates, L.P.  
1102 North Fourth Street  
P.O. Box 334  
Chillicothe, IL 61523-0334  
Attn: General Manager

With Copies to: Larkin, Hoffman, Daly & Lindgren, Ltd.  
1500 Northwest Financial Center  
7900 Xerxes Avenue South  
Bloomington, MN 55431  
Attn: Jane E. Bremer, Esq.

Such addresses may be changed by either party upon notice to the other party given as provided in this Section.

**8-2-9**      **DROPS TO PUBLIC BUILDINGS.** Grantee shall continue to provide Installation to **one (1)** cable drop, **one (1)** cable outlet, and monthly Basic Cable Service without charge to the Tri-City School District pursuant to its Franchise Agreement with the Village of Buffalo, Illinois.

**ARTICLE III – CONSTRUCTION STANDARDS**

**8-3-1 CONSTRUCTION CODES AND PERMITS.**

(A) Grantee shall obtain all necessary permits from Village before commencing any construction upgrade or extension of the System, including the opening or disturbance of any street, or private or public property within Village.

(B) The Village shall have the right to inspect all construction or installation work performed pursuant to the provisions of the Franchise and to make such tests at its own expense as it shall find necessary to ensure compliance with the terms of the Franchise and applicable provisions of local, state and federal law.

**8-3-2 REPAIR OF STREETS AND PROPERTY.** Any and all streets or public property or private property, which are disturbed or damaged during the construction, repair, replacement, relocation, operation, maintenance or reconstruction of the System shall be promptly and fully restored by Grantee, at its expense, to a condition as good as that prevailing prior to Grantee's work.

**8-3-3 BUILDING MOVERS.** The Grantee shall, on request of any person holding a moving permit issued by Village, temporarily move its wires or fixtures to permit the moving of buildings with the expense of such temporary removal to be paid by the person requesting the same, and the Grantee shall be given not less than **ten (10) days** advance notice to arrange for such temporary changes.

**8-3-4 TREE TRIMMING.** The Grantee shall have the authority to trim any trees upon and overhanging the streets, alleys, sidewalks, or public easements of Village so as to prevent the branches of such trees from coming in contact with the wires and cables of the Grantee. Except in emergency circumstances, Grantee shall provide Village with prior notice of its intent to trim any trees.

**8-3-5 NO WAIVER.** Nothing contained in this Franchise shall relieve any person from liability arising out of the failure to exercise reasonable care to avoid injuring Grantee's facilities.

**8-3-6 UNDERGROUNDING OF CABLE.**  
(A) In all areas of Village where all other utility lines are placed underground, Grantee shall construct and install its cables, wires and other facilities underground.

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(B) In any area of Village where **one (1)** or more public utilities are aerial, Grantee may construct and install its cables, wires and other facilities from the same pole with the consent of the owner of the pole.

**8-3-7**        **SAFETY REQUIREMENTS.** The Grantee shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

### **ARTICLE IV – OPERATIONS PROVISIONS**

**8-4-1**        **TECHNICAL STANDARDS.** The technical standards used in the operation of the System shall comply, at minimum, with the technical standards promulgated by the FCC relating to cable communications systems pursuant to the Federal Communications Commission's rules and regulations and found in Title 47, Section 76.601 to 76.617.

**8-4-2**        **LOCKOUT DEVICE.** Upon the request of a Subscriber, Grantee shall provide by sale or lease a Lockout Device.

**ARTICLE V – SERVICES PROVISIONS**

**8-5-1**        **SUBSCRIBER INQUIRIES.** Grantee shall have a publicly listed toll-free telephone number and be operated so as to receive Subscriber complaints and requests on a **twenty-four (24) hour** a day, **seven (7) days** a week basis.

**8-5-2**        **REFUND POLICY.** In the event a Subscriber established or terminates service and receives less than a full month's service, Grantee shall prorate the monthly rate on the basis of the number of days in the period for which service was rendered to the number of days in the billing.

**8-5-3**        **CREDIT POLICY.** For service interruptions of **twenty-four (24) hours** or more, the Grantee shall provide, at the subscriber's request, a credit of **one-thirtieth (1/30)** of one month's fees for each **twenty-four (24) hour** period of affected service.

**8-5-4**        **NOTIFICATION TO SUBSCRIBERS.** Pursuant to federal law, Grantee shall provide Subscribers with **thirty (30) days** advance written notice of changes in channel assignment or in the video programming service provided over any such channel.

**ARTICLE VI – FRANCHISE FEES, INSURANCE AND  
INDEMNIFICATION PROVISIONS**

**8-6-1        FRANCHISE FEE.**

(A)            Grantee shall pay to Village a Franchise Fee in an annual amount equal to **four percent (4%)** of its quarterly Gross Revenues.

(B)            Payments due Village under this provision shall be payable quarterly. The payment shall be made within **ninety (90) days** of the end of Grantee's fiscal quarter together with a brief report showing the basis for the computation.

**8-6-2        INSURANCE.**

(A)            Upon request, Grantee shall file with its acceptance of this Franchise, and at all times thereafter maintain in full force and effect at its sole expense, a comprehensive general liability insurance policy coverage, in protection of Village in its capacity as such. The policies of insurance shall be in the sum of not less than **One Million Dollars (\$1,000,000.00)** for personal injury or death of any **one (1) person**, and **Three Million Dollars (\$3,000,000.00)** for personal injury or death of **two (2)** or more persons in any **one (1)** occurrence, **One Million Dollars (\$1,000,000.00)** for property damage to any **one (1) person** and **Three Million Dollars (\$3,000,000.00)** for property damage resulting from any one act or occurrence. The Village shall be named as an additional insured on the policies of insurance.

(B)            The policy or policies of insurance shall be maintained by Grantee in full force and effect during the entire term of the Franchise. Each policy of insurance shall contain a statement on its face that the insurer will not cancel the policy or fail to renew the policy, whether for nonpayment of premium, or otherwise, and whether at the request of Grantee or for other reasons, except after **thirty (30) days'** advance notice have been provided to Village.

**8-6-3        INDEMNIFICATION OF THE VILLAGE.**

(A)            The Village, its officers, boards, committees, commissions, employees and agents shall not be liable for any loss or damage to any real or personal property of any person, or for any injury to or death of any person, arising out of or in connection with the construction, operation, maintenance, repair or removal of, or other action or event with respect to the System.

(B)            Grantee shall indemnify, defend, and hold harmless the Village, its officers, boards, committees, commissions, elected officials, employees and agents, from and against all liability, damages, attorneys' fees and penalties which they may legally be required to pay as a result of the exercise of the franchise, except claims because of PEG access programming.

(C)            Nothing in this Franchise relieves a person from liability arising out of the failure to exercise reasonable care to avoid injuring the Grantee's facilities while performing work connected with grading, regrading, or changing the line of a street or public place or with the construction or reconstruction of a sewer or water system. Village shall be

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liable only for the cost of replacing or repairing any damage to Grantee's property or equipment caused by tortuous acts by the Village, or its officers, boards, commissions, committees, elected officials, employees, and agents acting within the scope of their employment, consistent with State Law.

(D) In order for Village to assert its rights to be indemnified, defended, and held harmless, Village must with respect to each claim:

- (1) Promptly notify Grantee in writing of any claim or legal proceeding which gives rise to such right;
- (2) Afford Grantee the opportunity to participate in and fully control any compromise, settlement or other resolution or disposition of any claim or proceeding; and
- (3) Fully cooperate with reasonable requests of Grantee, at Grantee's expense, in its participation in, and control, compromise, settlement or resolution or other disposition of such claim or proceeding subject to paragraph (2) above.

**ARTICLE VII – REVOCATION OF FRANCHISE**

**8-7-1 VILLAGE’S RIGHT TO REVOK E .**

(A) In addition to all other rights which Village has pursuant to law or equity, Village reserves the right to revoke, terminate or cancel this Franchise, and all rights and privileges pertaining thereto, if after the hearing required by **Section 8-7-2** herein, it is determined that:

- (1) Grantee has violated any material provision of this Franchise; or
- (2) Grantee has practiced fraud or deceit upon Village or Subscriber.

**8-7-2 PROCEDURES FOR REVOCATION.**

(A) Village shall provide Grantee with written notice of a cause for revocation and the intent to revoke and shall allow Grantee **sixty (60) days** subsequent to receipt of the notice in which to correct the violation or to provide adequate assurance of performance in compliance with the Franchise. Together with the notice required herein, Village shall provide Grantee with written findings of fact which are the basis of the revocation.

(B) Grantee shall be provided the right to a public hearing affording due process before the Village Board prior to revocation, which public hearing shall follow the **sixty (60) day** notice provided in paragraph (A) above. Village shall provide Grantee with written notice of its decision together with written findings of fact supplementing said decision.

(C) After the public hearing and upon written determination by Village to revoke the Franchise, Grantee may appeal said decision with an appropriate state or federal court or agency.

(D) During the appeal period, the Franchise shall remain in full force and effect unless the term thereof sooner expires.

(E) Upon satisfactory correction by Grantee of the violation upon which said notice was given as determined, the initial notice shall become void.

**ARTICLE VIII – PROTECTION OF INDIVIDUAL RIGHTS**

**8-8-1 SUBSCRIBER PRIVACY.** Grantee shall comply with the terms of 47 U.S.C. § 551 relating to the protection of Subscriber privacy.

**ARTICLE IX – MISCELLANEOUS PROVISIONS**

**8-9-1**        **FRANCHISE RENEWAL.** Any renewal of this Franchise shall be done in accordance with applicable federal, state and local laws and regulations.

**8-9-2**        **AMENDMENT OF FRANCHISE ORDINANCE.** Grantee and Village may agree, from time to time, to amend this Franchise. Such written amendments may be made at any time if Village and Grantee agree that such an amendment will be in the public interest or if such an amendment is required due to changes in federal, state or local laws. Village shall act pursuant to local law pertaining to the ordinance amendment process.

**8-9-3**        **COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS.**

(A)            If any federal or state law or regulation shall require or permit Village or Grantee to perform any service or act or shall prohibit Village or Grantee from performing any service or act which may be in conflict with the terms of this Franchise, then as soon as possible following knowledge thereof, either party shall notify the other of the point in conflict believed to exist between such law or regulation. Grantee and Village shall conform to state laws and rules regarding cable communications not later than **one (1) year** after they become effective, unless otherwise stated, and to conform to federal laws and regulations regarding cable as they become effective.

(B)            If any term, condition or provision of this Franchise or the application thereof to any person or circumstance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition or provision to persons or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Franchise and all the terms, provisions and conditions hereof shall, in all other respects, continue to be effective and complied with. In the event such law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed so that the provision which had been held invalid or modified is no longer in conflict with the law, rules and regulations then in effect, said provision shall thereupon return to full force and effect and shall thereafter be binding on Grantee and the Village.

**ARTICLE X – PUBLICATION EFFECTIVE DATE;  
ACCEPTANCE AND EXHIBITS**

**8-10-1**     **PUBLICATION; EFFECTIVE DATE.**     This Franchise shall be published in accordance with applicable Illinois law. The effective date of this Franchise shall be date of acceptance by Grantee.

- 8-10-2**     **ACCEPTANCE.**
- (A)         Such acceptance by the Grantee shall be deemed the grant of this Franchise for all purposes. Upon acceptance of this Franchise, Grantee shall be bound by all the terms and conditions contained herein.
  - (B)         Grantee shall accept this Franchise in the following manner:
    - (1)         This Franchise will be properly executed and acknowledged by Grantee and delivered to Village.
    - (2)         With its acceptance, Grantee shall also deliver the insurance certificate required herein that has not previously been delivered.

**(Ord. No. 99-VOD-002; 05-03-99)**

**ARTICLE XI - CABLE/VIDEO SERVICE PROVIDER FEE AND PEG ACCESS FEE**

**8-11-1**     **DEFINITIONS.** As used in this Article, the following terms shall have the following meanings:

(A)           **"Cable Service"** means that term as defined in 47 U.S.C. § 522(6).

(B)           **"Commission"** means the Illinois Commerce Commission.

(C)           **"Gross Revenues"** means all consideration of any kind or nature, including, without limitation, cash, credits, property, and in-kind contributions received by the holder for the operation of a cable or video system to provide cable service or video service within the holder's cable service or video service area within the Village.

(1)     Gross revenues shall include the following:

(a)     Recurring charges for cable or video service.

(b)     Event-based charges for cable service or video service, including, but not limited to, pay-per-view and video-on-demand charges.

(c)     Rental of set top boxes and other cable service or video service equipment.

(d)     Service charges related to the provision of cable service or video service, including but not limited to activation, installation, and repair charges.

(e)     Administrative charges related to the provision of cable service or video service, including but not limited to service order and service termination charges.

(f)     Late payment fees or charges, insufficient funds check charges, and other charges assessed to recover the costs of collecting delinquent payments.

(g)     A *pro rata* portion of all revenue derived by the holder or its affiliates pursuant to compensation

arrangements for advertising or for promotion or exhibition of any products or services derived from the operation of the holder's network to provide cable service or video service within the Village. The allocation shall be based on the number of subscribers in the Village divided by the total number of subscribers in relation to the relevant regional or national compensation arrangement.

- (h) Compensation received by the holder that is derived from the operation of the holder's network to provide cable service or video service with respect to commissions that are received by the holder as compensation for promotion or exhibition of any products or services on the holder's network, such as a "home shopping" or similar channel, subject to subsection (i).
  - (i) In the case of a cable service or video service that is bundled or integrated functionally with other services, capabilities, or applications, the portion of the holder's revenue attributable to the other services, capabilities, or applications shall be included in the gross revenue unless the holder can reasonably identify the division or exclusion of the revenue from its books and records that are kept in the regular course of business.
  - (j) The service provider fee permitted by 220 ILCS 5/21-801(b).
- (2) Gross revenues do not include any of the following:
- (a) Revenues not actually received, even if billed, such as bad debt, subject to 220 ILCS 5/21-801(c)(1)(vi).
  - (b) Refunds, discounts, or other price adjustments that reduce the amount of gross revenues received by the holder of the State-issued authorization to the extent

the refund, rebate, credit, or discount is attributable to cable service or video service.

- (c) Regardless of whether the services are bundled, packaged, or functionally integrated with cable service or video service, any revenues received from services not classified as cable service or video service, including, without limitation, revenue received from telecommunication services, information services, or the provision of directory or Internet advertising, including yellow pages, white pages, banner advertisement, and electronic publishing or any other revenues attributed by the holder to noncable service or non-video service in accordance with the holder's books and records and records kept in the regular course of business and any applicable laws, rules, regulations, standards, or orders.
- (d) The sale of cable services or video services for resale in which the purchaser is required to collect the service provider fee from the purchaser's subscribers to the extent the purchaser certifies in writing that it will resell the service within the Village and pay the fee permitted by 220 ILCS 5/21-801(b) with respect to the service.
- (e) Any tax or fee of general applicability imposed upon the subscribers or the transaction by a city, state, federal, or any other governmental entity and collected by the holder of the State-issued authorization and required to be remitted to the taxing entity, including sales and use taxes.
- (f) Security deposits collected from subscribers.
- (g) Amounts paid by subscribers to "home shopping" or similar vendors for merchandise sold through any

home shopping channel offered as part of the cable service or video service.

- (3) Revenue of an affiliate of a holder shall be included in the calculation of gross revenues to the extent the treatment of the revenue as revenue of the affiliate rather than the holder has the effect of evading the payment of the fee permitted by 220 ILCS 5/21-801(b) which would otherwise be paid by the cable service or video service.

(D) **"Holder"** means a person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to 220 ILCS 5/21-401.

(E) **"Service"** means the provision of "cable service" or "video service" to subscribers and the interaction of subscribers with the person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to 220 ILCS 5/21-401.

(F) **"Service Provider Fee"** means the amount paid under this Article and 220 ILCS 5/21-801 by the holder to a Village for the service areas within its territorial jurisdiction.

(G) **"Video Service"** means video programming and subscriber interaction, if any, that is required for the selection or use of such video programming services, and which is provided through wireline facilities located at least in part in the public right-of-way without regard to delivery technology, including Internet protocol technology. This definition does not include any video programming provided by a commercial mobile service provider defined in 47 U.S.C. § 332(d) or any video programming provided solely as part of, and via, service that enables users to access content, information, electronic mail, or other services offered over the public Internet.

**8-11-2 CABLE/VIDEO SERVICE PROVIDER FEE IMPOSED.**

(A) **Fee Imposed.** A fee is hereby imposed on any holder providing cable service or video service in the Village.

(B) **Amount of Fee.** The amount of the fee imposed hereby shall be **five percent (5%)** of the holder's gross revenues. **(Revised 10-6-14)**

(C) **Notice to the Village.** The holder shall notify the Village at least **ten (10) days** prior to the date on which the holder begins to offer cable service or video service in the Village.

(D) **Holder's Liability.** The holder shall be liable for and pay the service provider fee to the Village. The holder's liability for the fee shall commence on the first day of the calendar month following **thirty (30) days** after receipt of the ordinance adopting this Article by the holder. The ordinance adopting this Article shall be sent by mail, postage prepaid, to the address listed on the holder's application notice sent pursuant to 220 ILCS 5/21-401(b)(6) to the Village.

(E) **Payment Date.** The payment of the service provider fee shall be due on a quarterly basis, **forty-five (45) days** after the close of the calendar quarter. If mailed, the fee is considered paid on the date it is postmarked. Each payment shall include a statement explaining the basis for the calculation of the fee.

(F) **Exemption.** The fee hereby imposed does not apply to existing cable service or video service providers that have an existing franchise agreement with the Village in which a fee is paid.

(G) **Credit for Other Payments.** An incumbent cable operator that elects to terminate an existing agreement pursuant to 220 ILCS 5/21-301(c) with credit to prepaid franchise fees under that agreement may deduct the amount of such credit from the fees that operator owes under Section 116.02(b).

**8-11-3 PEG ACCESS SUPPORT FEE IMPOSED.**

(A) **PEG Fee Imposed.** A PEG access support fee is hereby imposed on any holder providing cable service or video service in the Village in addition to the fee imposed pursuant to **Section 8-11-2(B)**.

(B) **Amount of Fee.** The amount of the PEG access support fee imposed hereby shall be **one percent (1%)** of the holder's gross revenues or, if greater, the percentage of gross revenues that incumbent cable operators pay to the Village or its designee for PEG access support in the Village.

(C) **Payment.** The holder shall pay the PEG access support fee to the Village or to the entity designated by the Village to manage PEG access. The holder's

liability for the PEG access support fee shall commence on the date set forth in **Section 8-11-2(D)**.

(D) **Payment Due.** The payment of the PEG access support fee shall be due on a quarterly basis, **forty-five (45) days** after the close of the calendar quarter. If mailed, the fee is considered paid on the date it is postmarked. Each payment shall include a statement explaining the basis for the calculation of the fee.

(E) **Credit for Other Payments.** An incumbent cable operator that elects to terminate an existing agreement pursuant to **220 ILCS 5/21-301(c)** shall pay, at the time they would have been due, all monetary payments for PEG access that would have been due during the remaining term of the agreement had it not been terminated pursuant to that section. All payments made by an incumbent cable operator pursuant to the previous sentence may be credited against the fees that the operator owed under **Section 8-11-3(B)**.

**8-11-4 APPLICABLE PRINCIPLES.** All determinations and calculations under this Article shall be made pursuant to generally accepted accounting principles.

**8-11-5 NO IMPACT ON OTHER TAXES DUE FROM HOLDER.** Nothing contained in this Article shall be construed to exempt a holder from any tax that is or may later be imposed by the Village, including any tax that is or may later be required to be paid by or through the holder with respect to cable service or video service. A State-issued authorization shall not affect any requirement of the holder with respect to payment of the Village's simplified municipal telecommunications tax or any other tax as it applies to any telephone service provided by the holder. A State-issued authorization shall not affect any requirement of the holder with respect to payment of the local unit of government's 911 or E911 fees, taxes or charges.

**8-11-6 AUDITS OF CABLE/VIDEO SERVICE PROVIDER.**

(A) **Audit Requirement.** The Village will notify the holder of the requirements it imposes on other cable service or video service providers to submit to an audit of its books and records. The holder shall comply with the same requirements the Village imposes on other cable service or video service providers in its jurisdiction to audit the holder's books and records and to recomputed any amounts determined to be payable under the requirements of the Village. If all local franchises between the Village and cable operator terminate, the audit requirements shall be those adopted by the Village pursuant to the Local Government Taxpayers' Bill of Rights Act, 50 ILCS 45/1

*et seq.* found in Chapter 36. No acceptance of amounts remitted should be construed as an accord that the amounts are correct. **(See Chapter 36 - Taxation)**

(B) **Additional Payments.** Any additional amount due after an audit shall be paid within **thirty (30) days** after the municipality's submission of an invoice for the sum.

**8-11-7** **LATE FEES/PAYMENTS.** All fees due and payments which are past due shall be governed by ordinances adopted by this municipality pursuant to the Local Government Taxpayers' Bill of Rights Act, 50 ILCS 45/1 *et seq.*

**(See 220 ILCS 5/21-801)**

**ARTICLE XII - CABLE AND VIDEO CUSTOMER PROTECTION LAW**

**8-12-1 CUSTOMER SERVICE AND PRIVACY PROTECTION LAW.**

(A) **Adoption.** The regulations of 220 ILCS 5/70-501 are hereby adopted by reference and may applicable to the cable or video providers offering services within the Village's boundaries.

(B) **Amendments.** Any amendment to the Cable and Video Customer Protection Law that becomes effective after the effective date of this Article shall be incorporated into this Article by reference and shall be applicable to cable or video providers offering services within the municipality's boundaries. However, any amendment that makes its provisions optional for adoption by municipalities shall not be incorporated into this Article by reference without formal action by the corporate authorities of the Village.

**8-12-2 ENFORCEMENT.** The Village does hereby pursuant to law declare its intent to enforce all of the customer service and privacy protection standards of the Cable and Video Protection Law with respect to complaints received from residents within the Village.

**8-12-3 CUSTOMER CREDITS.** The Village hereby adopts the schedule of customer credits for violations. Those credits shall be as provided for in the provisions of 220 ILCS 5/70-501(s) and applied on the statement issued to the customer for the next billing cycle following the violation or following the discovery of the violation. The cable or video provider is responsible for providing the credits and the customer is under no obligation to request the credit.

**8-12-4 PENALTIES.** The Village, pursuant to 220 ILCS 5/70-501(r)(1), does hereby provide for a schedule of penalties for any material breach of the Cable and Video Protection Law by cable or video providers in addition to the penalties provided in the law. The monetary penalties shall apply on a competitively neutral basis and shall not exceed **Seven Hundred Fifty Dollars (\$750.00)** for each day of the material breach, and shall not exceed **Twenty-Five Thousand Dollars (\$25,000.00)** for each occurrence of a material breach per customer.

(A) Material breach means any substantial failure of a cable or video provider to comply with service quality and other standards specified in any provision of the law.

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(B) The Village shall give the cable or video provider written notice of any alleged material breaches of the law and allow such provider at least **thirty (30) days** from the receipt of the notice to remedy the specified material breach.

(C) A material breach, for the purposes of assessing penalties, shall be deemed to occur for each day that a material breach has not been remedied by the cable or video service provider after the notice in (B).